THE TILTON-BEECHER TRIAL.

A DUEL AT LAW BETWEEN COUNSEL. CLOSE OF THE DIRECT EXAMINATION OF MR. TRACY -STATEMENTS OF MR. TILTON AND MR. MOULTON CONTRADICIED-HOSTILITIES OPENED BY MR.

BEACH-AN AGGRESSIVE CROSS-EXAMINATION. The direct examination of Mr. Tracy was concluded yesterday, and the cross-examination by Mr. Beach was begun. As was the case on Wednesday, much of Mr. Tracy's testimony called in question some of the statements made by the plaintiff's witnesses. Among the strangers present at the trial were the Rev. D. K. Bartlett of Albany, N. Y., the Hon. Henry L. Dawes of Pittsfield, Mass., Charles Francis Adams, jr., of Boston, Mass., and the Hon. A. S. Upham of Le Roy, N. Y.

LAWYER AGAINST LAWYER.

The jurymen manifested more interest in the testimony than they have recently shown, and two or three times during momentary lulls in the proceedings several of them consulted earnestly together. Mrs. Beecher sat in her accustomed place all day. Mr. Beecher was not present. Very few exceptions have recently been taken by the counsel on either side to Judge Neilson's rulings, but yesterday Mr. Evarts felt constrained to depart from this custom. He had offered to introduce new evidence in the shape of an interview with Mr. Tracy in relation to the scandal published in The Brooklyn Daily Union of June 26, 1874. He maintained that it was competent evidence, having been the public expression of Mr. Tracy's views at that time. It was, however, ruled out by Judge Neilson, and Mr. Evarts excepted to the ruling. The direct examination of Mr. Tracy terminated earlier than was anticipated. The main object was to elicit from Mr. Tracy contradictions of some of the plaintiff's witnesses. Mr. Evarts held in his hands a copy of the printed report of the plaintiff's case, and picked out passages from the testimony of Mr. Tilton and Mr. Moulton which he read to the witness, asking him whether they were true. The passages related principally to what Mr. Tracy was alleged to have told Mr. Tilton about the Investigating Committee. Mr. Tracy said they were not true, denying absolutely with respect to some, and qualifiedly with respect to others. In his testimony Mr. Tilton said that Mr. Tracy told him, before Mrs Tilton had gone before the Investigating Committee, he had instructed her what to say, and how to eay it-put the questions to her, that she might make no blunders in answering them. This Mr. Tracy declared he had never said. He likewise denied that he had told Mr. Tilton that the Committee would not inquire closely enough to get at the truth. He called in question other statements that had been made by Mr. Tilton and Mr. Moulton. He also swore positively that Mr. Woodruff did not tell him that Mr. Tilton's charge against Mr. Beecher was adultery

Mr. Beach began his cross-examination of Mr. Tracy in his usual vigorous manner, startling Everybody by his first question, which was in substance this; Whether the witness had suggested questions to Mr. Porter when the latter was cross-examining Mr. Moulton. Mr. Tracy did not remember doing so.

"When cross-txamining Mr. Moulton in regard to a litigation of Woodruff & Robinson, did you stand up behind Mr. Porter and make suggestions f' asked Mr. Beach.

" I did not!" replied the witness, with great emphasis, half rising from his chair.

Mr. Tracy had acted as counsel for the firm of Woodruff & Robinson, and the insinuations, which the question might have been thought to convey, that he had made improper use of professional secrets. probably lent piquancy to his reply.

The cross-examination, after opening in this aggressive manner, assumed the nature of a legal duel between the examiner and examined, and its progress was watched with great amusement by the spectators. Several times Mr. Tracy, who took the severe questioning of Mr. Beach in great good nature, laughed heartily at the manner in which he was brought to task by Mr. Beach for insisting on answering in his own way.

Considerable surprise was manifested by the auditors when the witness was asked whether he was the author of the opening speech which he had made for the defense. His face flushed as he replied that to a large extent he was. Mr. Beach insisted on having a more explicit answer. Objection was made by the counsel for the defense to these questions, but Mr. Beach said he wished to show in what character that opening speech, "overcharged with malignity, and," as he thought, "with untruth." had been made. Judge Neilson permitted the question to be asked again by Mr. Beach, and Mr. Tracy finally replied that he had composed most, but not

Gen. Butler's relations to the case were the principal subject of inquiry by Mr. Beach. The particulars of the consultation between Mr. Tracy and Gen. Butler at the Fifth Avenue Hotel in August, 1874, were all gone over. Mr. Beach wished to ascertain in what manner Mr. Tracy had gone into that consultation. This led to another duel of words. Mr. Tracy finally stated that he had gone intending to do a friendly act, to prevent the publication of a scandal the effect of which would be to breed demoralization. He denied that he told Gen. Butler that he appeared as the representative of Mr. Beecher. Questions about Mr. Tracy's visit to Boston to Gen. Butler last Summer led to an amusing scene. Mr. Beach was endeavoring to find out whether he had gone with or without Mr. Beecher's consent. The witness insisted that he could not answer without entering into an ex-

"It's a mere speculation, Sir," he said. "Ah speculation, Sir !" exclaimed Mr. Beach in an indescribable manner that set the audience into a muffled roar of laughter; "isn't it a conclusion in your mind?" Mr. Tracy at last said that he never supposed he went against Mr. Beecher's wishes This Mr. Beach declared was the answer which he had been for a long time trying to get. The witness insisted that this was the first time the form of the question had admitted of that answer Mr. Beach then called for the reading of the preceding questions and answers. THE TRIBUNE stenographer accordingly read them, beginning well back, and an amused expression on the faces of both Mr. Beach and Gen. Tracy gradually deepened into a smile, as they listened appreciatively to their words, which had been very earnest when struck off at a heat, but which sounded very funny when read by a third person.

Once Mr. Tracy had answered, "I don't remember

"Definitely," exclaimed Mr. Beach; "what are you covering up under the word definitely ?"

"Nothing," replied Mr. Tracy, with a laugh. The interview between Mr. Tracy and Gen. Butler, at the former's room, immediately after the Fifth Avenue Hotel consultation, was one of the principal topics. Mr. Beach wished to know whether either Mr. Tracy or Gen. Butler was preparing a statement for Mr. Beecher on that occasion. The witness wanted to answer in his own way, and Mr. Beach insisted on having shorter and more direct replies.

"Can't you answer !" asked Mr. Beach. "No, but I'll tell you what occurred," replied Mr.

Tracy. "No, you won't-I beg your pardon," said Mr.

"scuffling," as Mr. Evarts once called it. Mr. Beach

Beach. Mr. Shearman came in for his share of

ward he said he did not apply the remark to the wit-

"We understand Mr. Beach's remark was purely Pickwickian," said Mr. Shearman. "Well, Sir," returned Mr. Beach in a severe tone, "there is no one more competent or apt to deal in

Pickwickian sense than that gentleman," indicating Mr. Shearman. Mr. Tracy said that at his room Gen. Butler had begun to dictate a statement which he thought Mr. Beecher might make, but he did not finish it. After returning to Boston he sent Mr. Tracy a paper. which the latter had returned within two months, without paying any attention to it.

THE PROCEEDINGS-VERBATIM.

GEN, TRACY NEVER MR. TILTON'S COUNSEL. The Court met at 11 a. m., pursuant to ad-

Benjamin F. Tracy was recalled and his direct exam-

nation resumed.

Mr. Evarts-Mr. Tracy, have you ever been in any matter or in any form an attorney or counsel or legal adviser of Mr. Tilton ! A. Never.

Q. What employment or relation of advice or assistance had you in respect of the Church Committee or its investigations! A. I was requested by the Church Committee to attend their meetings and aid them in the examination of witnesses that might appear before them. Q. Was it employment for compensation! A. No. Sir,

a mere friendly act.

HOW GEN, TRACY BECAME COUNSEL FOR MR. BEECHER.

Q. Now, when did you become counsel of Beecher in this matter at all, and how! A. I was asked to become counse to Mr. Beecher soon after the commencement of the action-I den't knew how soonby Mr. Shearman. I did not determine whether I would accept the retainer of Mr. Beecher until some time in September, not at least until after yourself and Judge Porter had been employed, and the other counsel had been determined on.

Q. And then the question of your acceptance was dened by you ! A. It was.

Q. And in favor of acting for Mr. Beecher, with your associate counsel I A. Yes, Sir.

Q. When did you first anticipate being a witness in this cause? A. Not until after the plaintiff had given evidence of interviews between myself and Mr. Moulton and Mr. Tilton, in which it was alleged that I represented Mr. Beecher in those interviews. After that evidence had been given I considered the question whether it was my duty or not to be a witness.

Mr. Beach-Well, we don't want that statement. Sir. Mr. Evarts-Well, after that was done, was the que tion of whether you should be a witness submitted to any

consideration or opinion ! Mr. Beach-That is objected to, Sir.

Mr. Evarts-Why is that, Sir !

Judge Neilson-I think he may take the naked fact that the question was considered by him and his associatesthe simple naked fact.

Mr. Evarts-That it was submitted to the judgment of others is the main point. How is that, Mr. Tracy ! A. It was submitted to my associates, and I followed their Mr. Beach-Well, Sir, I move to strike out the latter

portion of that. Judge Neilson-Yes; "It was submitted to my associ-The act of his being here shows that he followed

their judement. Mr. Evarts-Presumptively.

The Witness [Sotto roce]-Not necessarily.

THE "UNION" INTERVIEW WITH GEN. TRACY RULED OUT,

Mr. Evarts-Though an obstinate man might have gone against it. [To the witness.] Mr. Tracy, please look at this paper; come down from the stand a

The witness examined a bound volume of The Brooklyn

Union and then resumed his seat.;
Q. Please look at The Brooklyn Daily Union of the Issue of Friday, June 26, 1874, and say if this is the publication of an interview with you to which you have referred

in your testimony ! A. It is, Mr. Evarts—1 offer, if your Honor please, to put that in-terview in evidence, not of course as evidence that any statements are representations of facts, or proof of facts, but as evidence, and of some importance, I think, in some subsequent connections, that this was a public declaration of Mr. Tracy's views of certain facts in this case, growing out of interviews between himself and Mr. Moulton and Mr. Tilton, which were well known to them as his public declarations, and the subsequent relations preserved between the parties after that publica-

Mr. Beach-We object to it, Sir, as incompetent and

Judge Neilson-I think the mere fact that the publication was made can be taken, but that is as far as you

Mr. Evarts-That is in evidence, but unless the nature of the publication—your Honor perceives, as my learned friends do, that a state of public declaration on the part the questions that were put to her, and all the answers of Mr. Tracy, known to these gentlemen as a public declaration, and presumptively his views and his opin-said, to him, and her bearing before the Committee and ions, and then a continuance of relations with him in regard to matters that may be brought in evidence in reference to interviews concerning which they have given evidence, may be an important element. Their conduct towards him after that publication goes to sustain, if you please, the view that we take as to their subsequent relations. Here certainly was a public declaration, I say, in

Judge Neilsen-I don't think we can receive it, Mr. Mr. Evarts-Your Honor will allow us to have it marked

for identification 1

Judge Nellson-Yes.

Mr. Evarts-And permit us to except to its exclusion I dare say it is sufficiently described to be identified. It is a sub-division of a general subject headed "The Scandal," and the subdivision is headed, "The Nature of the Scandal Expained."

Judge Neilson-What paper is it, Sirt Mr. Evarte-It is The Brooklyn Union of Friday, June

hadn't he !

Mr. Shearman-The stenographer had better mark it,

GEN. TRACY'S INTERVIEWS WITH MRS. TILTON.

Mr. Evarts-No; the particular copy of the paper is of no importance. [To the witness.] Gen. Tracy, it has been a subject of evidence as to your interviews or conversations with Mrs. Tilton preceding her examination before the Committee; I will ask your attention no to that point of time, and ask you to state when and how you first came into any conversation or meeting with Mrs. Tilton, and what passed between you and her prior to her delivering her statement to the Committee, on the

night, I think, of the 6th of July ? Mr. Beach-So far as that question calls for what passed between Mrs. Tilton and Mr. Tracy we object to it, as immaterial and incompetent.

Judge Neilson-It will answer your purpose to describe whether he met her, and how long they conversed, and who was present.

Mr. Evarts-Well, I dare say we can get along without cunning against any legal prejudices of my learned

Mr. Beach-Prejudices! Mr. Evarts-Well, Mr. Tracy-

The Witness-Shall I begin at the time I first met Mrs. Tilton !

Q. Yes. Just give the facts concerning your meeting with her; and then I, perhaps, will ask some questions that will not be objected to. A. In the afternoon of July 6—late in the afternoon—I was at Mr. Beecher's, and I there learned that Mrs. Ovington had been to Mr. Beecher's with a message which she desired to communicate to him; I learned also that Mr. Beecher preferred not to have a communication from Mrs. Ovington, or not to see her, and requested me to go around and see if she would deliver whatever communication she had for him to me. Mr. Beach-This is trespassing, Sir, upon the rule, l

The Witness-Then I will begin where I met Mrs. Tilton, if you prefer it.

Mr. Evarts-I think this is substantially in evidence be-

fore, if your Honor please.

Judge Neilson [to the witness]—Then you went to Mrs. Ovington's and met her; is that it! A. No, I went to Mr. Ovington's and introduced myself to Mrs. Ovington, and told her my object in coming there.

Mr. Evarts-Had you any acquaintance with her before ! A. I never had seen Mrs. Ovington before that, and she said--

Judge Neilson-No, you learned that Mrs. Tilton was

The Witness-I learned that Mrs. Tilton was not there. Judge Nellson-But would be t The Witness-No, I did not learn that at that time. • Mr. Evarts-We cannot anticipate, if your Honor please

exactly how it came about. Judge Neilson-That is true. had said that an answer given was not honest. AfterMr. Evarts-Mr. Tracy, understand not to give any onversation, except how it came about that you saw

Mrs. Tilton. Mr. Beach-We don't want the substance of the conver-

sation in the shape of a narrative.

The Witness-I will avoid any objection, I think, Mr. Beach. As the result of my interview with Mrs. Ovington, she went to Mr. Beecher's; and as the result of what passed there, she stating that Mrs. Tilton would be at her house, she thought; on her return, I went to see if Mrs. Tilton desired to go before the Committee.

Q. Went to Mrs. Ovington's A. Went to Mrs. Ovington's, and, on reaching there, I found that Mrs. Tilton had been there and had gone away, but would return with her stepfather, Judge Morse, later in the evening : I think I then went to dine, and, after dinner, returned to Mrs. Ovington's, and either Judge Morse and Mrs. Tilton were in the house when I went, or followed me in very soon after, and I was there introduced to Mrs. Tilton by her stepfather, Judge Morse.

Q. Was Judge Morse a previous acquaintance of yours! A. He was; I had known Judge Morse slightly for several

Q. And Mrs. Tilton-bad you any personal acquaintance

with her! A. None whatever.
Q. Did you know her by sight! A. Well, I think I should have recognized Mrs. Tilton by sight; I remember having seen her in Plymouth Church once or twice, but I never had spoken with her, and had no acquaintance Q. Now, before she left Mrs. Ovington's to go before

the Committee, did you have any conversation with her, and if so where and of what length ! A. She did not leave Mrs. Ovington's to go before the Committee, Mr. Evarts: the Committee came to her.

Q. Yes, that is so. A. On being introduced to Mrs. Til-

ton, the object of her visit was stated generally in the presence of Mr. and Mrs. Ovington, Judge Morse and myself. She was considering whether she would or would not-

Mr. Beach-Walt a moment, Sir.

Mr. Evarts-Well, that we have had, The Witness-There was a general talk on the subject. She went apart and had a private consultation with her stepfather, Judge Morse, and returned to the room and

Mr. Beach-It is hardly worth while to go into those

details. You ain't very good at avoidance. Mr. Evarts-Well, I don't know; I think so. [To the She gave you an answer as to going before the Committee 1 A. She did, and Judge Morse left the house. I left immediately after to go to Mr. Storrs's and notify the Committee. I did so, and they came around to Mr. Ovington's house, where Mrs. Titton was.

Q. Now, what further interview, if any, did you have with Mrs. Tilton before she commenced her statement before the Committee! A. When we reached Mr. Ovington's, I was told that Mrs. Tilton and Mrs. Ovington were in the dining-room below, and I went down there. Mrs. Tilton was just finishing her tea. I notified her that the Committee were present, and she immediately-we passed up to the parlor floor, she and Mrs. Ovington proseeding up stairs.

Q. To the story above 1 A. To the story above.
Q. Above the parlors! A. And returned in a few noments, and she was introduced to the Committee-the different members of the Committee-and proceeded at once with the statement.

Q. Now, at this interview between yourself and her In the tea-room was anything else said excepting that the Committee were ready to to hear her statement and that she was ready to give it ! A. There was a single word kaid-a single centence.

Mr. Evarts-Well, shall I have that, Mr. Beach !

all the answers! A. I did.

Mr. Beach—I think not, Sir.
Mr. Evarts—Did it relate to the appointment of going before the Committee ! A. It did.

Q. Now, were you present during the examination of Mrs. Tilton 7 A. I was. Q. And did you attend to and hear all the questions and

GEN. TRACY AND MR. TILTON TALK ABOUT MRS. TILTON'S TESTIMONY.

Q. Now, Sir, evidence has been given by Mr. Tilton concerning an interview with you on the day after, I think, this examination of his wife. Did you have such

an interview ! A. I did. Q. How did that come about A. By an appointment made by Mr. Moulton, for me to meet Mr. Tilton at his

house that next evening. Q. And you did so! A. I did so. Q. Now, Sir, what passed at that interview between you and Mr. Tilton! A. Well, it was a long interview; a good deal was said. The main subject of conversation was the appearance of his wife before the Committee - the different members of the Committee, what impression she made before the Committee, the details of which conversation I cannot repeat in the language in which it curred that evening, but the substance of which and

the drift of which I know. Q. Well, Sir, what was that ? A. Well, Mr. Tilton asked me about his wife's being before the Committee-asked me how she came to go before the Committee, and I told him the facts so far as I knew them ; told him how I first met his wife, how she determined to go before the Committee; that I went for the Committee and they came and she made her statement before the Committee; Itold the questions that were put to her, and all the answers of to him and her hearing before the Committee and the impression that she made upon the Committee, so far erved it : he inquired particularly about that, and what feeling her statement seemed to produce on the minds of the Committee toward himself, and I told him

that, as far as I had observed it. that, as far as I had doserved at.

Q. Well, what did you tell him in that regard I A. I told him that Mrs. Tilton's statement was very kind toward him; while she had denied positively the statement of the Woodholl scandal and of improper relations with Mr. Beecher, and had also denied positively that Mr. Beecher had ever made an improper proposal to her vet she had not accused Mr. Tilton, or spoken harshly of him at all; on the contrary, she had spoken in the kindest manner of him, and I think that I told him that she expressed in some manner her-in some words, I have orgotten what-her affection for him, and that she explained her motive in coming before the Com mittee, that after the publication—she said after the publication of the "Bacon letter" she felt it to se her duty to seek out some of her brethren in the church and to make a communication to them of the facts in this case, and I repeated to him what she said about her duty to deny it, to herself-for her own sake and for the sake of her children. Then he asked me who the members of the committee were, and I told him, naming them over, and we discussed the various characteristics of each member of the Committee and how they felt toward him and treed Mr. Beecher, he giving me what infor-mation—or his views of each member of the Committee, and I giving him my impressions; and he spoke there of whether that Committee could ever be induced to believe or say they believed that Mr. Beecher had been guilty of wronging him or committing an offense against him. said very strongly that he did not believe they would; that they were determined to acquit Mr. Beecher of all wrong, and they never would say that Mr. Beecher had committed a wrong against him; and I combated that view occause I told him that I was satisfied from what I knew of the Committee, and what I had seen of them, that the Committee would make a report that the facts presented before them justified; if those facts condemned Mr. Beecher, they would condemn; if they acquitted him, they would acquit him, and they would condemn or acquit just to the degree that the facts would warrant and that discussion went on a long time, until late in the night; that was the general nature and drift of the talk. Q. When you were speaking to Mr. Tilton concerning

his wife's attitude and statements as toward himself, did you say anything to him on the subject of her continued purpose or wish to remain with him? A. I did. Q. What did you say to him in that regard? A. I said to him that his wife expressed a desire and a determination to preserve her family, and to continue to live with

Mr. Beach-When was that ! On the 7th of July ! A This was on the 7th of July. CONTRADICTIONS OF MR. TILTON. Mr. Evarts-I call your attention, Mr. Tracy,

her husband and to struggle on and live down this story

to this statement of Mr. Tilton's—[Reading]:
Gen. Tracy told me that I need have no anxiety concerning the formation of a committee; that Mrs. Tilton had gone down to the Committee at Mr. Ovington's house; that previous to the assembling of it, he. Gen. Tracy, had instructed her what to say and how to say it—put the questions to her, that she might make no blunders in answering them; that when she came before the Committee, she astonished and surprised all of them with her eloquent allusions to her pastor and to her husband. to this statement of Mr. Tilton's-(Reading) :

In this interview was anything said by you to this effect, in whole or in part, that you had instructed her what to say and how to say it-put questions to her that she might make no blunders in answering them I A. Not

word. Q. In your intercourse, at any time, with Mrs. Tilton. before her examination was completed, had you in any way, or in any part, prepared her for the questions or the answers in that examination ! A. No. Sir; not unless the remark I made to her first should be deemed a preparation ; I will state the remark that I did make to her if

Mr. Beach-That is objected to. Mr. Evarts-I think we have a right to give that, Sir !

Mr. Beach-I don't know why they have a right, Sir. Mr. Evarts-I have a right to give the negation by showing what was said.

Judge Neilson-That you have given. Mr. Evarts-Now, the witness says not unless this single remark which he has already referred to, and which he was not allowed to give, was a negation Judge Neilson-Well, that rule would admit any con-

versation that might be suggested in the absence of the Mr. Evarts-Not necessarily, I should think, if your Honor please; it would admit any qualifying statement

in the denial which the witness makes; that, I suppose, a witness is always entitled to.

Judge Neilson-Yes; and I think you could ask him now whether in that single observation any direction

was given in respect to her answers.

Mr. Evarts-Well, I will ask him that. fTo the witness.| In that single observation to which you refer, was there any direction given in respect to her answers i Judge Neilson-It seems to me, Sir, that covers the

Mr. Evarta-Well, Sir, that is sufficient. I believe it is already in evidence by Mrs. Ovington.

Mr. Beach—No; you are mistaken. Mr. Evarts—Now, Mr. Tracy, Mr. Tilton says this also. in respect to this same interview; he says that you said

Now, if you take right advantage of Mrs. Tilton's ap-pearance before that Committee, and of the tender hearis of those gentlemen toward all the parties in the case, particularly toward you, now is an opportunity to sup-press the scandal forever. Then he proceeds:

It is a woman's right (he says) to deny it; let her deny it; let her stand on the denial. Now, cooperate with that denial, and it can be made a success. Did you say anything of that kind to Mr. Tilton! A. No, Sir, except that I said that she had denied it, and that she said that it was her right and her duty to deny

that statement. Q. Mr. Tracy, a certain passage between Mr. Tilton and yourself before the Committee in regard to your acting as counsel notwithstanding what you had said to him, has been given in evidence, and in that statement is the statement that you had previously notified him; do you

remember the occurrence before the Committee in

which- A. I do. Q. Yes; well that is-that I believe is sufficiently in evidence-now, Mr. Tracy, before that time had you given notice to Mr. Tilton, and when and how! A. I had given him notice

Q. When was that ! A. Well, it was between the 10th and the 13th of July; I cannot state definitely, as I was seeing Mr. Tliton almost daily from the 27th of June until about the 13th of July; sometimes oftener than once a day.

Mr. Beach-What year !

The Witness-'74; and it is impossible for me to state. therefore, with definiteness the time; but I am sure it was after I had heard of his conversation at Ovington's on the 9th of July; and I am inclined to think it was after I had heard his wife had left him, but of that I am not certain. Mr. Evarts-Where did it occur, the interview or the

conversation ! A. I think it occurred at the club.

Q. The Brooklyn Club! A. The Brooklyn Club-it may have been at my office; Mr. Tilton was in the habit of dropping in at my office frequently; and he was also in the habit of dropping in at the club when I was taking lunch or at dinner; and I met him in the street often. We had casual conversations; at times we had set conversations; and it was one of the casual conversations either in my office or at the club when I told him-

Q. Well, what passed between you-how was the matter introduced? A. Referring to the conversation in 1872, I said to him: "Mr. Tilton, as long as you adhere to the case that you then stated to me, I shall adhere to the promise I made you; but I desire to say to you that when you change your case against Mr. Beecher, if you ever do, and state a different case from what you stated to me, I shall not regard my promise then made to you as binding upon me."

Q. What did he say to that? A. He said that he could not see whether—how that would release me from my promise; that I had made my promise not to be counsel for Mr. Beecher in case he and Mr. Beecher came into collision; and whether he stated the same case now against Mr. Beecher that he stated then or not, he did not see that that would release me. I told him I thought I did; that that was a matter of judgment, whether it did or not; it was my judgment that it did, and that I should act upon it in that contingency.

Q. Did he say anything in regard to it ! A. I think he

did not; that was the substance of the interview. Q. Now, you have said that you frequently had meetings, casual or otherwise, with Mr. Tilton during this period. What were your relations, friendly or- A Friendly. Q. Were these interviews, any of them, sought or in-

vited by you! A. None that I remember, not a single one; every interview I ever had with Mr. Tilton, so far as I now remember, was either sought by himself, or was the result of an appointment made by Mr. Moulton, Q. In his behalf t A. In his behalf, or in behalf of-

Q. But not through you! A. Not through me, nor at my solicitation. Mr. Beach-He does not include in that the casual inviews of which he has spoken of at the club or other-

Mr. Evarts-Well, interviews that were entirely casual. The Witness-Oh, accidental meetings in the street could be said to be sought by no one, but when Mr. Tilton sought me at the club, when I was lunching, and sat down at the table and had a conversation with me, I

treat that as an interview sought by him.

Q. You didn't seek an interview; you didn't commence or seek the conversation at the club with him, finding him there! A. No. Sir: and the club is not the place where Mr. Tilton is in the habit of resorting except to see some one; that is, I never saw him there-I think I never saw Mr. Tilton at the club except when he had come to have some interview with me; I don't remember that I ever did.

Q. I recur now to the interview, Mr. Tracy, that you. sed, completed-the interview of the 7th. Now

Mr. Tilton says this, as coming from you: He said, (speaking of you Mr. Tilton says), He said comething like this: "There are a number of gentlemen, He said, (speaking of you Mr. Tilton says), He said something like this: "There are a number of gentlement and they can summon whom they choose. They can summon Mr. Beecher, and he can say what he chooses little or much; they can summon Mrs. Tilton, and she can say what she chooses, little or much; they can summon you, and you can say what you choose, little or much; and the committee will be bound to make their report, and on the basis of the truth, for they won't inquire enough to get the truth; they will be bound to make their report on the basis of what those people choose to put down before them, and what you will choose to put down before them; only," he said, "a proper, gentlemanly, and respectful report would be to the advantage of all parties."

Now. Sir. did you have any conversation of that sub-

Now, Sir, did you have any conversation of that substance, or - A. No, Sir; not in the sense that it is there stated; the question of the mode in which the Commit-tee would get witnesses before them was probably discussed, and it was quite likely stated that they had no

Mr. Beach-Well, I had a little rather that this gentleman would not reason on the subject; if he will, give us

the benefit of his recollection. Mr. Evarts-No matter; just give us what you remember-what is your recollection upon the subject. A. Well, I recollect that the Committee and its mode of proceeding was discussed between Mr. Tilton and myself, and recollect the question of the power of the Committee was discussed; I do not remember positively whether it was—whether I stated there that they had not the power to compel the attendance of witnesses or not; if that question was asked—I don't know whether it was or not

positively. Q. You don't recollect about that! A. I know I never stated what he says there about the Committee's not inquiring after the truth, or not wanting the truth; I don't recall precisely the words you have read; that I know I

Q. "They won't inquire enough to get the truth." A. I

Q. Or of that effect ! A. I never said that; I said that the Committee's report would undoubtedly proceed upon the evidence before them and would be in concurrence with that evidence whatever it might be; that I said. Q. And otherwise than that you didn't make the statements! A. I did not. Q. Or to the effect here given-now Mr. Tilton further

says this :

says this:

Gen. Tracy then asked me what sort of a report would satisfy me—what kind of a report I would stand by. I told him I would stand by any report which did me no injustice, and which reinstated Elizabeth. "Well," said he, "all I want you to bear in mind is this you may make any kind of report you choose which don't charge Mr. Beecher with adultery, or with any such crime as that he cannot maintain his pulpit. Make the offense anything you choose, and I will procure the passage of the report, only," said he, "of course the committee could not bring in a report that he was guilty of adultery, or of anything that comproguised his character and standing as a clergyman. Make a report of that kind and you can make it ad libitum, according to your own wish and will."

A. There was nothing said at that interview on that A. There was nothing said at that interview on that

night on the subject of my getting the Committee to make a report, or what kind of a report the Committee would make; whatever there is of that conversation did not

Q. At this interview, then, nothing of this kind occurr ed ! A. No, Sir.

MR. TILTON'S PROPOSED STATEMENT FOR THE COMMITTEE.

Q. Now, subsequently, an interview has been drawn into evidence at which something was said about a report and a report or draft of a report was present; do you remember such an occasion ! A. I do.

Q. Yes, when was that ! A. The report was presented by Mr. Tilton on the morning of the 9th of July : I had seen him on the morning of the 8th, after the interview in the evening, I think, but I certainly saw him on the morning of the 9th, when he had what is known on this trial as the " Long Report," present.

Mr. Evarts-What is the number of that exhibit, Mr. Shearman I

Mr. Shearman-" D, 45,"

Mr. Evarts [handing paper to witness]-Just look at this "Exhibit D, 45 "-look at that paper, Mr. Tracy, sufficiently to ascertain if that is the paper that was made the subject of conversation on that night. A. I did not have this paper in my hands on that morning; I heard Mr. Tilton read it, and have heard it read on the trial, and have read some part of it myself. He read a paper that morning in my presence which was to the tenor and effect of this paper, but I cannot identify the manuscript, ner can I say that-affirm of my own knowledge this is in all respects the paper that he read there; I have no reason to doubt that it is.

Q. Well, he did read through a paper ! A. He did read brough a paper, of about this tenor and effect.

Q. And it was considered and talked about between vont A. Yes, Sir. Q. And, so far as you now recall that paper and exam-

ine this, you suppose that this is the paper I A. I suppose that this is the paper. Q. Was Mr. Moulton present at this conversation? A

Mr. Moulton I he was there.

Q. You three were together ! A. We were.

Q. Now, will you state that conversation and how this report figured in it 1 A. If I saw Mr. Tilton on the 8th of July, then I learned the fact of his having gone home on the night of the 7th from him, and seeing his wife; if I did not see him on the 8th, then the following conversation occurred on the 9th; I am not absolutely positive of having seen him on the 8th of July, but I think I did on that morning; I think I saw him two mornings in succession, but of that I would not be positive, but at one or

both of these conversations he said that he had gone home after the interview of July the 7th, had seen his wife, had called her up, had kissed her, and said to her that he had seen Gen. Tracy and had learned from him the details of her statement before the Committee; that he had expressed himself reconciled to that statement, and that the next morning they arose and talked over the matter and consulted in regard to a report which should be made by the Committee which should settle this matter and end this scandal; he said his wife was very happy over the result; he said that he and his wife had sat down and prepared this document, as one with which she would be satisfied and he would be satisfied; he read it over to mehe read the report to me, and after listening to it, I said to him, "Why Mr. Tilton there are many things stated in that report that of course the Committee could not, under any circumstances, say." He said he was aware of that; that he had only prepared it as a suggestion of what could be done. He did not expect the Committee to adopt this report as he had drawn it literally; he had brought it down for suggestion and to see what was thought of it. I said to him that it was a step in the right direction; that I discovered by it that he and Mr. Beecher had substantially agreed on the offense that was alluded to, and covered by the "Apology," and that I considered the pivot on which the whole case turned; that if they agreed on that, there was no difficulty, as it seemed to me, in their making a statement which would anthorize the Committee, and justify the Committee stating this case substantially as he covered this point of it in the report; and he asked me if the Committee would make that report; I said, " Of course they won't make it, unless there is evidence given before them that requires them to make it; the Committee are not going to adopt this report at your suggestion, Mr. Titton, without any evidence; but the parties have got to come before the Committee and state facts, and if, in the

statement of facts, that statement warrants a report of this description, I have no doubt that they will make it." Q. Was anything said by Mr. Tilton as to whether he was ready or willing to give the facts, according to that report! A. I certainly so understood Mr. Tilton, that that was the agreement between himself and his wife, which they had arrived at.

Q. Well, was that all that was said about this report? A. That was substantially all that was said about this report. Q. Was the report taken away by him-that is, did you

take it away ! A. Well, I didn't take it; it was either kept by him or by Mr. Moulton. Q. I believe you have said it was never in your hands ! A. It was never in my hands before. Mr. Shearman [suiting the action to the word]-I will

take it out of your hands now. Q. Mr. Moulton has stated in regard to this interview this. Mr. Fullerton says: [Reading.]

his. Mr. Punerion says: [Reading.]

I am now trying to prove what Mr. Tilton said at the time of the actual handing of that paper to Mr. Moulton.

We made objection that Mr. Beecher was not present. Then the witness says: [Reading.] Mr. Tracy was a party to it [that is, to the interview], and he said he represented Mr. Beccher.

Did anything of that kind occur on your part at that interview! A. I never said I represented Mr. Beecher, on any occasion, at any time, in the se stitute for him. I never said that, or claimed to represent Mr. Beecher in any sense, except as a friend whose udgment he would be likely to rely to a greater or a less extent. That was understood by Mr. Moulton always, and by Mr. Tilton. I never said anything else.

Mr. Beach-Wait one moment. I move to strike that

Judge Neilson-Yes. Mr. Evarts-Well, they had a great many understandings. At this interview did you say that you represented Mr. Beecher, in any way ! A. I don't remember that any such thing was said or talked of at that interview.

Q. This interview had been sought by them, as you say! A. Yes, Sir; I was requested to come around that

Mr. Evarts-Your Honor has made this ruling, which seems to be pretty near, if not entirely, equivalent to the proposition. [Reading from a memorandum.] proposition. [Reading from a memorandam.]

Mr. Tilton having said, in answer to a general question on direct examination, that defendent never denied the criminal intercourse, added: "Whenever he spoke of it he always said the criminality attached to him alone." Held, that the motion to strike out as not responsive, as stating general result of conversations, instead of stating what was said, and when, should be denied.

Judge Neilson-The witness did say what was said in Mr. Evarts-No; he stated that whenever he spoke of it, he always said so and so; that is, giving the result,

but not the words of special occurrence. Now, the understanding, whatever it was, was produced, I suppose, necessarily by the conversations on the subject. Judge Neilson-Yes. Mr. Evarts-And I will ask Gen. Tracy this question then. [To the witness.] Mr. Tracy, in reference to this subject of representing Mr. Beecher, during any of these

interviews that you have spoken of, or any interview with either of these gentlemen, did you say to them that you represented Mr. Beecher in the interview I A. No. Q. Was there ever made to you any claim or sug-

gestion on the part of Mr. Moulton or Mr. Tilton that you did represent Mr. Beecher! A. Never. Q Now, I ask you whether at this interview when the paper was before you, this report, this was said by Mr. Tilton, according to your recollection of anything that

occurred?

"Well," said he [meaning yourself], "all I want you to bear in mind is this; you may make any kind of report you choose which don't charge Mr. Beecher with adultery, or with any such crime as that he cannot maintain his pulpit. Make the offense anything you choose, and I will procure the passage of the report. Only, of course, the Committee could not bring in a report that he was guilty of adultery, or of anything that compromised his character and standing as a clergyman. Make a report of that kind, and you can make it ad libitum, according to your own wish and will."

A. No. Sir; there was something said in that conversa

occurred !

tion that the statement in that report, the statement of what the apology referred to, was in substantial accord-ance with what Mr. Beecher said it referred to, and it referred to a matter that did not compromise his moral character; and I did say in that conversation that I should not, so far as I was concerned-I should not stand at all on a phraseology of statement or report that did not compromise the moral character of Mr. Beecher. Q. I call your attention now to a point in Mr. Moulton's

testimony applicable to this same interview. He gives, as a part of a conversation which he had with Mr Beecher at some part of this interview, this, as coming from you, or occurring on your part at that interview: from you, or occurring on your part at that interview:

That he (Mr. Tilton) had prepared such a report for
the Committee to make, and had shown it to Gen. Tracy,
and Gen. Tracy had said to him, on the night of the conversation to which I refer, that the Committee seemed
now to be of opinion that there was an offense, and that
he thought it would not be hard to get from that Committee a report, unfavorable, it is true, to Mr. Beecher,
on the ground of the offense, but which would really
settle the whole business and save all the parties concerned from dishonor in consequence of crime. Now, did you say anything to the effect of this lats

clause! A. I did not. There was a conversation which embraced more or less of the first clause.

Q. Did anything occur at that interview that is covered by this recital, other than as you have stated it is your testimony ! A. Not as I understand that recital.

MR. BEECHER'S PAYMENTS OF MONEY DAM-

Q. Is it the conversation which you have given! A

AGING TO MR. MOULTON. Q. Now, Mr. Tracy, an interview has been insduced in evidence in which something was said be tween you lit is said by the witnesses or the witness!

was some of the interviews that occurred between Mr. Moulton and myself between, I think, the 13th and the

Q. And who were present ! A. Mr. Moulton and my-Q. How did that interview come about? A. We were

speaking, as I recollect it, of Mr. Tilton's contemplated statement which he had promised to make before the Committee on the 20th of July, I think gives notice that he should make a statement, and in the course of conversation I said to Mr. Moulton, "I don't see, if Mr. to you." He said, "How! What do you mean!" I said had no business to tell you about that money; that was matter of confidence between Mr. Beecher and myself mean thing in Mr. Beecher to have told you of it;" and he became somewhat excited in his remarks, and I felt constrained to say to him that I did not get my informa tion from Mr. Beecher in regard to that money. He said, "If you didn't get it from him, whom did you get is from to I hesitated to answer. He pressed me very strongly to tell him, and I finally said,

was the first man who informed me of the fact

A Juror [to Mr. Evarts] - What was the date of that

the 30th of July, of last year.

The Witness-I think it was, It was after Mr. Tilton has given notice through The Argus that he should make a statement before the Committee, and the time for that statement, I think, had been appointed for the 20th of June, and I think it was intermediate those two days

you make any observation to Mr. Moulton! A. I said to Mr. Moulton that I thought that was a matter that he and

Q. Well, was it any further discussed? A. I dop't think

Mr. Moulton that I desired him to communicate that to Mr. Tilton. He may have inferred it from what I did say

Q. You did not say anything otherwise on that point?

Q. Mr. Moniton says [reading]:

I said, when Mr. Tracy wanted me to tell Mr. Tilton, that that would be a serious embarrassment to me personally, in consequence of my having received that money, and I said to Mr. Beecher that I told Mr. Tracy that I was perfectly willing to be guided by him with sound advice, with any moral, good reason—with any good reason, and I would cooperate with him te induces Theodore Tilton not to publish his statement; but I would not, on any such ground as that, undertake to stop its publication. Mr. Tracy told me that would cause me trouble if it was published, and I told him if it caused me trouble it must cause me trouble that I had done no wrong, and I didn't fear any trouble that would come from that.

Did that occur between you and Mr. Moniton 1. A. Not except as I have stated. I don't think it occurred as he Q. Mr. Moulton says [reading]:

has stated. munication caused him trouble it must cause him trouble ?

A. I don't think he did, though he may have said that. I told him that it would cause him trouble; that it would be a serious injury to him to have that fact published; and he may have said if it does transpire and injures he.

Lean stand it, or something of that kind. I don't remember that; but he said that Mr. Beecher must deny it—

there is no necessity for repeating it without its being called for. Mr. Evarts-It is a qualified statement. Mr. Beach—it is part of the argument.
Mr. Evarts—Was anything else said at this interview

MR. TILTON APOLOGIZES TO GEN. TRACY. Q. Do you remember, Mr. Tracy, after the passare between you and Mr. Tilton before the Committee (on the 22d of July, I think, it is said to have been, or about that time), as to your having given a pledge-do you ember seeing Mr. Tilton again that day ! A. I do.

Dieter's saloon that day, when I was dining. Q. There with your family ! A. There with my daugh Q. Well, did he then have anything to say on the sub-

Mr. Evarts-It is not a conversation that has been given

Mr. Beach-Is that a conversation which has been given in evidence !

dence, that occurred before the Committee.

The Witness—It was perhaps—

Mr. Beach—No, it is not the sequel of it. Mr. Evarts-You will see that it is, if you listen to it. The Witness-It was, perhaps, an hour after the scene before the Committee, or possibly more. I was dining in Dieter's with my daughters, and he came in and passed by me to the back part of the saloon; (I was in the front part), and as he passed me he threw his arm around my neck and put his head down to mine and said, "Mr.

Mr. Beach-It is a wonder there was not a kiss on that occasion. [Laughter.]

HOTEL.

that. [To the witness.] Mr. Tracy, there was an interview between yourself and Mr. Moulton that occurred at the Fifth Avenue Hotel, which has been introduced into the evidence. Now, did you have an interview with Mr. Moulton there, and, if so, when was it! A. I went with Mr. Moulton to the Fifth Avenue Hotel on Sunday evening-I think Aug. 9-where I had an interview with Gen.

Q. Well! A. And a very small portion of which Ma

feelings, you must forgive me." Mr. Evarts-Well, you can cross-examine on

Tiiton has any regard for your interests, how he can press this matter to such an extent that the full history of this transaction will have to be stated, for if it is, I don't see how you can keep from coming out the fact that money has been paid by Mr. Beecher in this matter." That is not the form of the conversation; excuse me. I said, " I don't see how this can go on so that a full history of the case has to be stated, without resulting in serious injury "I mean the fact, Mr. Moulton, that money has been paid by Mr. Beecher in this matter." Said he, "Mr. Beecher Mr. Tilton knows nothing of that money, and it is a very

Mr. Evarts-It was somewhere between the 20th and

Mr. Beach-The 20th of July, you mean. The Witness-July ; yes, Sir.

I had not better discus

Q. Mr. Moulton has given a statement of this kind, as a

Q. Well, what you did say you have stated ! A. I have

A. No. Sir.

that he should deny it, and Mr. Beecher must. I told bim that I didn't think Mr. Beecher would deny it if

his phrase.

Q. Weil, when you disposed of that branch of the matter by saying you thought you and he had better not discuss that matter of Mr. Taton's knowledge, in what form, so far as your emember, did that pass between you! A. I think I said in reply to that : " Mr. Moulton, whether Mr. Tilson knew where this money came from or not, is a matter that you and I probably had better not discuss !" and I don't think he made any reply to that.

Q. How, and under what circumstances ! I saw him at

ject of that occurrence! A. He did. He came into the

in evidence, but it relates to this conversation; it is a sequel to this conversation that has been given in evi-

Tracy, if I said anything this afternoon that hurt your

THE INTERVIEW AT THE FIFTH AVENUE

and Mr. Moulton on the subject of money having appeared in the course of this transaction; do you remem ber such an interview! A. I do. Q. When was that? A. I cannot state definitely, but it

20th of July.

Q. Where did that occur! A. I should say that it

occurred at Mr. Moulton's house.

your partner, Mr. Moulton, Mr. Woodruff." Q. Mr. Franklin Woodruff t A. Mr. Franklin Woodruff that money had been paid for Mr. Tilton. He then made some severe remarks about Mr. Woodruff for having told me, and said again that that was a matter of strict confidence between himself and Mr. Beecher and that he had denied the payment of that money, and that Mr. Beecher must. I said to him, "It will be very easy for Mr. Beecher not to state the payment of that money, Mr. Moulton, provided he is not required to give a history of this case; but if Mr. Beecher is compelled to make before the public a full statement of this case, I don't see how he can conceal the fact that money has been paid, and if that fact transpires, I think it will do you great injury." That is the substance of that inter

Mr. Everts-I said July. [To the witness.] When Mr. Moulton, in this conversation, said to you that Mr. Tilton didn't know anything about the payment of money, did

part of a conversation between himself and Mr. Beecher:
I told Mr. Beecher that Mr. Tracy wanted me to communicate the fact that I had received \$5,000 from Mr. Beecher, to Mr. Tilton, in order to stop him from the publication of his statement. Did anything of that kind occur! A. I did not say to

except as I have stated. I don't think it occurred as he out, Sir, that that was understood by Mr. Mouiton and

> forced to make a statement, or if he—
> Mr. Beach—That was not called for, Sir. Mr. Evarts-He has already stated it. Mr. Beach-I know he has already said it, and therefore

> between you and Mr. Moulton in regard to Mr. Tilton's being informed or knowing anything of this matter of the money, other than what you have stated ? A. I think not. I think he simply made the remark that Mr. Tilton knew nothing of where that money came from. That was